



Senate

General Assembly

File No. 22

January Session, 2001

Substitute Senate Bill No. 1112

Senate, March 8, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE WORKERS' COMPENSATION REVIEW BOARD.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-301 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (a) At any time within [ten] twenty days after entry of an award by
4 the commissioner, after a decision of the commissioner upon a motion
5 or after an order by the commissioner according to the provisions of
6 section 31-299b, as amended by this act, either party may appeal
7 therefrom to the Compensation Review Board by filing in the office of
8 the commissioner from which the award or the decision on a motion
9 originated an appeal petition and five copies thereof. The
10 commissioner within three days thereafter shall mail the petition and
11 three copies thereof to the chief of the Compensation Review Board
12 and a copy thereof to the adverse party or parties.

13 Sec. 2. Section 31-299b of the general statutes is repealed and the
14 following is substituted in lieu thereof:

15 If an employee suffers an injury or disease for which compensation
16 is found by the commissioner to be payable according to the
17 provisions of this chapter, the employer who last employed the
18 claimant prior to the filing of the claim, or the employer's insurer, shall
19 be initially liable for the payment of such compensation. The
20 commissioner shall, within a reasonable period of time after issuing an
21 award, on the basis of the record of the hearing, determine whether
22 prior employers, or their insurers, are liable for a portion of such
23 compensation and the extent of their liability. If prior employers are
24 found to be so liable, the commissioner shall order such employers or
25 their insurers to reimburse the initially liable employer or insurer
26 according to the proportion of their liability. Reimbursement shall be
27 made within ten days of the commissioner's order with interest, from
28 the date of the initial payment, at twelve per cent per annum. If no
29 appeal from the commissioner's order is taken by any employer or
30 insurer within [ten] twenty days, the order shall be final and may be
31 enforced in the same manner as a judgment of the Superior Court.

32 Sec. 3. Section 31-300 of the general statutes is repealed and the
33 following is substituted in lieu thereof:

34 As soon as may be after the conclusion of any hearing, but no later
35 than one hundred twenty days after such conclusion, the
36 commissioner shall send to each party a written copy of [his] the
37 findings of the commissioner and award. The commissioner shall, as
38 part of the written award, inform the employee or [his] the employee's
39 dependent, as the case may be, of any rights the individual may have
40 to an annual cost-of-living adjustment or to participate in a
41 rehabilitation program under the provisions of this chapter. [He] The
42 commissioner shall retain the original findings and award in [his] said
43 commissioner's office. If no appeal from [his] the decision is taken by

44 either party within [ten] twenty days thereafter, such award shall be
45 final and may be enforced in the same manner as a judgment of the
46 Superior Court. The court may issue execution upon any uncontested
47 or final award of a commissioner in the same manner as in cases of
48 judgments rendered in the Superior Court; and, upon the filing of an
49 application to the court for an execution, the commissioner in whose
50 office the award is on file shall, upon the request of the clerk of said
51 court, send to [him] the clerk a certified copy of such findings and
52 award. In cases where, through the fault or neglect of the employer or
53 insurer, adjustments of compensation have been unduly delayed, or
54 where through such fault or neglect, payments have been unduly
55 delayed, the commissioner may include in [his] the award interest at
56 the rate prescribed in section 37-3a and a reasonable attorney's fee in
57 the case of undue delay in adjustments of compensation and may
58 include in [his] the award in the case of undue delay in payments of
59 compensation, interest at twelve per cent per annum and a reasonable
60 attorney's fee. Payments not commenced within thirty-five days after
61 the filing of a written notice of claim shall be presumed to be unduly
62 delayed unless a notice to contest the claim is filed in accordance with
63 section 31-297. In cases where there has been delay in either
64 adjustment or payment, which delay has not been due to the fault or
65 neglect of the employer or insurer, whether such delay was caused by
66 appeals or otherwise, the commissioner may allow interest at such
67 rate, not to exceed the rate prescribed in section 37-3a, as may be fair
68 and reasonable, taking into account whatever advantage the employer
69 or insurer, as the case may be, may have had from the use of the
70 money, the burden of showing that the rate in such case should be less
71 than the rate prescribed in section 37-3a to be upon the employer or
72 insurer. In cases where the claimant prevails and the commissioner
73 finds that the employer or insurer has unreasonably contested liability,
74 the commissioner may allow to the claimant a reasonable attorney's
75 fee. No employer or insurer shall discontinue or reduce payment on
76 account of total or partial incapacity under any such award, if it is

77 claimed by or on behalf of the injured person that [his] such person's
78 incapacity still continues, unless such employer or insurer notifies the
79 commissioner and the employee of such proposed discontinuance or
80 reduction in the manner prescribed in section 31-296 and the
81 commissioner specifically approves such discontinuance or reduction
82 in writing. The commissioner shall render [his] the decision within
83 fourteen days of receipt of such notice and shall forward to all parties
84 to the claim a copy of [his] the decision not later than seven days after
85 [his] the decision has been rendered. If the decision of the
86 commissioner finds for the employer or insurer, the injured person
87 shall return any wrongful payments received from the day designated
88 by the commissioner as the effective date for the discontinuance or
89 reduction of benefits. Any employee whose benefits for total incapacity
90 are discontinued under the provisions of this section and who is
91 entitled to receive benefits for partial incapacity as a result of an
92 award, shall receive those benefits commencing the day following the
93 designated effective date for the discontinuance of benefits for total
94 incapacity. In any case where the commissioner finds that the
95 employer or insurer has discontinued or reduced any such payment
96 without having given such notice and without the commissioner
97 having approved such discontinuance or reduction in writing, the
98 commissioner shall allow the claimant a reasonable attorney's fee
99 together with interest at the rate prescribed in section 37-3a on the
100 discontinued or reduced payments.

JUD **JOINT FAVORABLE SUBST.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Minimal Cost (Workers' Compensation Administration Fund)

Affected Agencies: Workers' Compensation Commission

Municipal Impact: None

Explanation**State Impact:**

The passage of this bill could result in minimal additional costs to the Workers' Compensation Commission (WCC) that could be absorbed within existing appropriations. The bill extends the time frame for appeals of decisions made by a commissioner of the WCC to the Workers' Compensation Review Board, from ten days up to twenty days. This could result in a minimal increase in the number of cases brought before the Workers' Compensation Review Board. There were 188 new appeals brought to the review board in FY 00, while it disposed of 222 cases. The Workers' Compensation Review Board is part of the WCC, which is funded through the Workers' Compensation Administration Fund.

OLR Bill Analysis

sSB 1112

**AN ACT CONCERNING THE WORKERS' COMPENSATION
REVIEW BOARD.**

SUMMARY:

This bill increases from 10 to 20 days the time that a party has to appeal to the Workers' Compensation Review Board from a workers' compensation commissioner's:

1. award;
2. decision on a motion;
3. order requiring an employee's prior employer or its insurer who is found liable for part of the employee's compensation to reimburse an initially liable employer or insurer;
4. decision in an occupational lung disease claim;
5. decision on whether an employee's injury is a permanent vocational disability; and
6. decision imposing a penalty on an employer, insurer, or party for certain violations of the workers' compensation act.

By law, payments due under awards and reimbursement orders must be made within 10 days.

EFFECTIVE DATE: October 1, 2001

APPEALS FROM DECISIONS IMPOSING PENALTIES

The bill increases the appeals period for decisions of workers' compensation commissioners imposing a penalty on:

1. an employer for failing to provide insurance coverage or welfare plan payments to employees receiving workers' compensation benefits,
2. an employer or insurer for undue delay in adjusting or paying benefits due to fault or neglect,
3. a party who unreasonably and without good cause delays completion of a hearing,
4. an employer who does not comply with certain insurance requirements, and
5. an employer failing to transfer an employee to suitable work during treatment or rehabilitation.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0